

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

BAIL APPLICATION NO.1872 OF 2023

Babasaheb S/o Sitaram Lodhe,
Age: 33 years, Occ: Agriculture,
R/o. Majaleshar, Taluka Shevgaon,
District Ahmednagar. ..Applicant

Versus

The State of Maharashtra,
Through Shevgaon Police Station,
Ahmednagar. ..Respondent

**AND
BAIL APPLICATION NO.1871 OF 2023**

1. Somnath S/o. Sitaram Lodhe
Age: 32 years, Occ: Agriculture,
R/o. Majaleshar, Taluka Shevgaon,
District Ahmednagar.
2. Vishnu S/o Chandrabhan Lodhe
Age: 45 years, Occ: Agriculture,
R/o. As above. ..Applicant

Versus

The State of Maharashtra,
Through Shevgaon Police Station,
Ahmednagar. ..Respondent

**WITH
CRIMINAL APPLICATION NO.4001 OF 2023
IN
BAIL APPLICATION NO.1871 OF 2023**

Parmeshwar Sambhaji Lodhe,
Age: 29 years, Occ: Agriculture,
R/o. Majaleshar, Lodhe Vasti Sukali Road,
District Ahmednagar. ..Applicant

Versus

1. Vishnu S/o Chandrabhan Lodhe
Age: 29 years, Occ: Agriculture,
R/o. Majaleshar, Lodhe Vasti Sukali Road,
District Ahmednagar.
2. Somnath S/o. Sitaram Lodhe
Age: 32 years, Occ: Agriculture,
R/o. Majaleshar, Lodhe Vasti Sukali Road,
District Ahmednagar.
3. The State of Maharashtra,
Through Shevgaon Police Station,
Ahmednagar. ..Respondents

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Mr. Sachin S. Shinde, Advocate for the Applicants.

Mr. S. B. Narwade, APP for Respondents-State.

Mr. Manoj A. Dond, Advocate for the Complainant.

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CORAM : S. G. CHAPALGAONKAR, J.

DATED : 02nd NOVEMBER, 2023.

PER COURT:-

1. The applicants seek regular bail in connection with Crime No.875 of 2023 registered with Shevgaon Police Station, District Ahmednagar for the offences punishable under sections 307, 326, 323, 143, 147, 148, 149, 504, 506 and 452 of the Indian Penal Code.

2. The investigation has been set in motion on the basis of the information given by Parmeshwar Sambhaji Lodhe, wherein he alleges that on 31.08.2023 at about 2.30 pm accused persons moved at the spot holding deadly weapons in their hands. They abruptly became aggressive on account of previous dispute and raised brutal attack on the informant and his family. It is specifically alleged that the applicant-Babasaheb (applicant in Bail Application No.1872/2023) was holding an axe in his hand. The accused Somnath and Vishnu (applicants in Bail Application No.1871/2023) were holding iron rod and sickle respectively in

their hands. Thereafter, accused persons dragged Dnyaneshwar (brother of the informant) out of the house and applicant Babasaheb Lodhe inflicted head injury to him by an axe. The applicant Somnath assaulted informant and Dnyaneshwar's wife Arti by iron rod. All other accused raised attack on family members of the informant by sticks, kicks and fists blows. It is alleged that Dnyaneshwar suffered serious injuries on his head. His wife Arti suffered multiple injuries on her person. They were shifted to Rural Hospital at Shevgaon, then referred to higher medical centre i.e. Sai Asian Hospital at Ahmednagar. On the basis of the aforesaid information Crime No.875/2023 came to be registered against in all 15 accused persons including the applicants. It appears that, later on higher offence under Section 307 of the Indian Penal Code has been added vide order dated 15.09.2023. The applicants have been arrested on 12.09.2023. Since then, they are behind the bar. Their prayer for grant of bail has been rejected by the Court of Sessions on 09.10.2023.

3. Mr. Shinde, learned Advocate appearing for the applicants would submit that there is civil dispute between the family of the informant and the accused persons. All the family members of the applicants have been falsely roped in the offence. He would submit that, although name of the accused Krushna Lodhe is mentioned in the FIR, subsequently it is found that he was not present on the spot. Mr. Shinde would submit that injured victims have suffered simple injuries in the scuffle. Even, counter FIR has been registered at the instance of the applicant- Babasaheb against informant and his family members. He would submit that there are no criminal antecedents. The investigation in the matter is practically over. Hence, applicants be enlarged on bail.

4. The learned APP for the State as well as learned Advocate appearing for the complainant vehemently oppose the prayer. They would submit that the brutal attack was raised by the accused persons. They were members of unlawful assembly and holding deadly weapons in their hands. The ocular evidence concurs with medical evidence on record. *Prima facie*, there is sufficient material to bring home guilt against applicants. The learned Advocate appearing for the complainant submits that the applicants before this Court are main assailants. The victims have suffered injuries on the vital part. Even, ladies are brutally assaulted. He would submit that the release of the applicants may result into recurrence of similar incident.

5. Having considered submissions advanced, it is apparent that as many as 15 persons are named as accused in the FIR. Even, there is counter complaint at the instance of the applicant-Babasaheb. Apparently, there was scuffle in two groups on account of previous dispute. The medical evidence on record shows that Dnyaneshwar has suffered injury on frontal region, which is simple in nature. The abrasion on left side of neck, is attributed to assault by wooden stick causing grievous injury. The injury certificate of Arti shows that she suffered simple injury attributed to hard and blunt object, whereas Mandabai Lodhe suffered fracture of metacarpal bone, apart from three injuries which are simple in nature.

6. So far as role of the applicant-Babasaheb is concerned, he is alleged to have inflicted blow of an axe on the head of Dnyaneshwar. The injury certificate of Dnyaneshwar confirms such injuries, however the nature is categorized as simple. The injuries suffered by other victims i.e. Arti and Mandabai are simple except fracture of metacarpal bone suffered by Mandabai.

7. So far as the role attributed against the applicants in Bail Application No.1871/2023 is concerned, Somnath is alleged to have inflicted blows on the person of Arti using iron rod. The Vishnu is attributed having caused injury to Arti using sickle. However, corresponding injury of sickle is absent in injury certificate of Arti.

8. The investigation in the matter is almost complete as can be seen from the papers. Looking to the nature of dispute and scuffle in two groups it is difficult to infer intention to kill on the part of the applicnats. In that view of the matter, further detention of the applicants would not be necessary. However, to secure the interest of the prosecution, some conditions are required to be imposed. Hence, case is made out for grant of bail. Hence, the following order:

ORDER

- (i) Bail Applications are allowed.
- (ii) The applicants, Babasaheb S/o Sitaram Lodhe, Somnath S/o. Sitaram Lodhe and Vishnu S/o Chandrabhan Lodhe be released on bail in Crime No.875 of 2023 registered with Shevgaon Police Station, District Ahmednagar for the offences punishable under sections 307, 326, 323, 143, 147, 148, 149, 504, 506 and 452 of the Indian Penal Code on furnishing P.B. and S.B. of Rs.50,000/- (Rs.Fifty Thousand only) each on following condition:
 - a. The applicants shall not tamper with the prosecution evidence in any manner.
 - b. The applicants shall not indulge in similar offence.
 - c. The applicants shall not enter in village Majaleshahar (Lodhe Vasti), Tq. Shevgaon, Dist. Ahmednagar for next three months from the date of their release.

d. The applicants shall attend each and every effective date before the Sessions Court.

e. The applicants shall attend concerned police station once in a week i.e. on every Monday between 10.00 am to 02.00 pm till filing of the charge-sheet.

(iii) Applications are disposed of.

(iv) In view of disposal of Bail Applications, Criminal Application No.4001 of 2023 is allowed and accordingly disposed of.

(S. G. CHAPALGAONKAR)
JUDGE